

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ANDRE MURPHY,

Plaintiff,

v.

C.O. NOWICKI, et al.,

Defendants.

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FIFTH AMENDED  
SCHEDULING ORDER

15-CV-6676L

Pursuant to a letter having been received by Robert J. Boyle, Esq., counsel for plaintiff, dated March 26, 2019, requesting on behalf of all counsel an adjournment of the April 2, 2019 status conference and an extension of time for plaintiff to serve expert reports, and this Court having received a follow-up email on March 29, 2019 from Rodney O. Personius, Esq., counsel for defendant Robert Reinard, advising that counsel agreed to adjourn the April conference until June 19, 2019 and requesting that a new disclosure date for plaintiff experts be addressed at the conference, and this Court having considered counsel's request, and good cause having been shown, it is hereby

ORDERED that:

1. All fact depositions shall be completed by no later than **July 29, 2019**.

2. The **status conference** scheduled to be held with the undersigned at 2310

U.S. Courthouse, Rochester, New York on April 2, 2019, at 11:40 a.m., is adjourned until **June 19, 2019, at 11:40 a.m.**, to discuss the status of the case and the possibility of settlement.

3. Plaintiff shall identify any expert witnesses who may be used at trial pursuant to Fed. R. Civ. P. 26(a)(2)(A) and provide reports pursuant to Rule 26(a)(2)(B) and/or disclosures pursuant to Rule 26(a)(2)(C) by **August 30, 2019**. Defendants shall identify any expert witnesses who may be used at trial and provide reports pursuant to Fed. R. Civ. P. 26 by **September 30, 2019**.

4. All expert depositions shall be completed by no later than **December 2, 2019**.

5. All discovery in this case shall conclude on **December 30, 2019**. All motions to compel discovery shall be made returnable on or before **January 30, 2020**.

6. Dispositive motions, if any, shall be filed no later than **March 2, 2020**. Unless a consent to proceed before this Court has been filed, such motions shall be made returnable before Judge Larimer.

7. Responding papers are due by **March 30, 2020**. Reply papers, if any, shall be filed by **April 13, 2020**. The motion will be taken under advisement without oral argument.

8. A trial date status conference pursuant to Fed. R. Civ. P. Rule 16(e) and Local Rule 16 will be held, if necessary, at a date and time to be determined by the trial judge after determination of dispositive motions. If no dispositive motions are filed, counsel shall **immediately** contact the trial judge so that a trial date status conference can be scheduled.

At least seven (7) days prior to the trial date status conference, the parties shall file a joint case status report setting forth the information described below. If the parties disagree as to the information to be provided, the report must set forth their different responses. The joint status report shall contain:

- (1) Nature of the Case: Set forth a brief description of the action, identifying the parties, all counsel of record, the relief requested, any affirmative defenses and any relationship the case may have to other pending actions.
- (2) Motion Practice: Are any motions, dispositive or non-dispositive, pending? If so, briefly describe the motion. Explain if additional motion practice is necessary before the matter is ready to be tried.
- (3) Settlement: Describe the status of settlement negotiations. If the parties believe a court supervised settlement/mediation conference would be of assistance in resolving the case or narrowing disputed issues, please state.
- (4) Trial: State whether the case is ready for trial. If not, explain why. Set forth an estimate of how long the trial will take and whether the case is jury or non-jury.

No extension of the above cutoff dates will be granted except upon written application, made prior to the cutoff date, showing good cause for the extension. Application for extensions should be made to the Magistrate Judge. Joint or unopposed requests to extend the deadlines set forth in this order need not be made by formal motion, but rather may be sought in a

letter to the court. Letter requests must detail good cause for the extension and propose new deadlines.

**IT IS SO ORDERED.**

A handwritten signature in cursive script, reading "Marian W. Payson", positioned above a horizontal line.

MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
March 29, 2019